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6 DEFENDANT

FILED
BUSINESS DIVISION
DEC 7 8 42 AM '76
CLARK, SAN DIEGO CO.
CALIFORNIA

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 IN THE COUNTY OF SAN DIEGO
9

10 PAUL SAMUEL SHEPHERD,)
11 Plaintiff,)

12 -vs-)

NO. 384590

13 DENNIS PARTEE, JAMES PIERCE,)
14 GARY GARRISON and CINEMATRONICS,)
15 INC., a California corporation,)
16 and DOES I through V, Incl.,)

ANSWER TO CROSS-COMPLAINT FOR
DAMAGES AND RECISSION

Defendants.)

17 CINEMATRONICS, INC., a California)
18 corporation,)

19 Cross-Complainant,)

20 -vs-)

21 PAUL SAMUEL SHEPHERD, and DOES)
22 I through X, Inclusive,)

23 Cross-Defendants.)

24 Comes now cross-defendant, PAUL SAMUEL SHEPHERD, and
25 answers the cross-complaint on file herein as follows:

26 ANSWER TO FIRST CAUSE OF ACTION

27 I

28 Cross-defendant admits each and every allegation contained

1 in Paragraphs I and II of the first cause of action herein.

2 II

3 Cross-defendant denies each and every allegation of Para-
4 graph III of the alleged first cause of action in the conjunctive
5 as well as the disjunctive.

6 III

7 Cross-defendant denies each and every allegation contained
8 in Paragraph IV of the first cause of action in the conjunctive
9 as well as the disjunctive.

10 IV

11 Cross-defendant admits each and every allegation contained
12 in Paragraph V of the first cause of action.

13 V

14 Cross-defendant has no information or belief sufficient to
15 enable him to answer the allegations of Paragraphs VI, VII, VIII
16 and IX of the first cause of action, and basing his denial on that
17 ground, denies each and every allegation thereof.

18 VI

19 Cross-defendant denies each and every allegation of Para-
20 graph X of the first cause of action in the conjunctive as well
21 as the disjunctive.

22 SECOND CAUSE OF ACTION

23 I

24 Cross-defendant hereby refers to its answers to Paragraphs
25 I through X inclusive of the first cause of action and incorporates
26 them herein as fully set forth.

27 II

28 Cross-defendant denies each and every allegation set forth

1 in Paragraph II of the second cause of action in the conjunctive
2 as well as the disjunctive, specifically denying that during the
3 months of April 1975 to August 1975, cross-defendant breached his
4 fiduciary duty to cross-complainant by converting corporate prop-
5 erty to his own use, or at all.

6 III

7 Cross-defendant denies each and every allegation set forth
8 in Paragraph III of the second cause of action in the conjunctive
9 as well as the disjunctive, specifically denying that cross-
10 defendant breached his fiduciary duty to cross-complainant by
11 assembling much of the aforementioned property into the form of
12 marketable video game units and then marketing said units in direct
13 competition with cross-complainant, or at all.

14 IV

15 Cross-defendant has no information or belief sufficient to
16 enable him to answer the allegations of Paragraph IV of the second
17 cause of action, and basing his denial on that ground, denies each
18 and every allegation thereof.

19 V

20 Cross-defendant denies each and every allegation set forth
21 in Paragraph V of the second cause of action in the conjunctive as
22 well as the disjunctive, specifically denying that any acts and
23 conduct of the cross-defendant were oppressive, fraudulent and
24 malicious or that cross-defendant knowingly attempted to conceal
25 the removal of said property or that cross-defendant knowingly
26 attempted to conceal his direct competition with cross-complainant,
27 or at all.

28 /////

1 THIRD CAUSE OF ACTION

2 I

3 Cross-defendant hereby realleges his answers to Paragraphs
4 I through IX, inclusive, of the first cause of action, and Para-
5 graphs XII and XIII of the second cause of action, and incorporates
6 them herein as though fully set forth.

7 II

8 Cross-defendant admits that on or about April 1975, cross-
9 defendant Shepherd entered into an oral employment contract with
10 the defendant James Pierce for the direct benefit of the cross-
11 complainant.

12 III

13 Cross-defendant denies each and every allegation set forth
14 in Paragraph III of the third cause of action in the conjunctive
15 as well as the disjunctive, specifically denying that an implied
16 condition of the oral employment contract was that cross-defendant
17 would at all times during his employment for cross-complainant owe
18 to cross-complainant a fiduciary duty and act towards cross-
19 complainant in a loyal and good faith manner, or at all.

20 IV

21 Cross-defendant admits that during his period of employment
22 he was paid a salary of \$300.00 per week but except for that
23 admission specifically denies each and every other allegation set
24 forth in Paragraph IV of the third cause of action, specifically
25 denying that cross-defendant was paid a total consideration of
26 \$5,400.00.

27 V

28 Cross-defendant denies each and every allegation set

1 forth in Paragraph V of the third cause of action in the conjunctive
2 as well as the disjunctive, specifically denying that during the
3 months of April 1975 to August 1975, cross-defendant breached and
4 was in breach of the provisions of his oral employment contract
5 thereby violating his fiduciary duty and duty of good faith and
6 loyalty by converting the corporate property of cross-complainant
7 to cross-defendant's own use and by entering into direct competition
8 with cross-complainant, or at all.

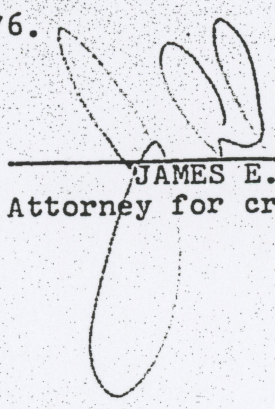
9 VI

10 Cross-defendant has no information or belief sufficient to
11 enable him to answer the allegations of Paragraph VI of the third
12 cause of action of the cross-complaint, and basing his denial on
13 that ground, denies each and every allegation thereof.

14 WHEREFORE, Cross-defendant prays:

- 15 1. That cross-complainant take nothing by way of its
16 cross-complaint;
17 2. That cross-defendant be awarded its costs; and
18 3. For such other and further relief as the court may
19 deem just and proper.

20 DATED: December 2, 1976.

21
22 
23 _____
24 JAMES E. CLARK
25 Attorney for cross-defendant
26
27
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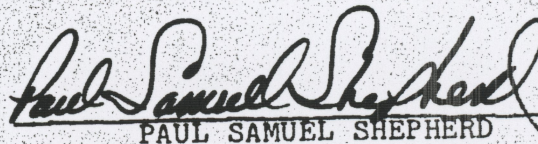
V E R I F I C A T I O N

I, PAUL SAMUEL SHEPHERD, declare:

That I am the PLAINTIFF and CROSS-DEFENDANT in the above-entitled proceeding; I have read the foregoing ANSWER TO CROSS-COMPLAINT FOR DAMAGES AND RECISSION and know the contents thereof; and I certify that the same is true of my own knowledge, except as to those matters which are therein stated upon my information or belief, and as to those matters I believe it to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 12-3-, 1976, at San Diego, California.


PAUL SAMUEL SHEPHERD

ATTACH ORIGINAL OR TRUE COPY

CASE NUMBER: 384590

ATTORNEY:

JAMES E. CLARK, ESQ.

3960 Park Blvd.,

San Diego, CA 92103

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BUSINESS DIVISION

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CLERK, SAN DIEGO CO.
CALIFORNIA

DECLARATION OF SERVICE BY MAIL (C.C.P. 1013a and 2015.5)

I, the undersigned, say: I am over 18 years of age, employed in
(Resident/Employed)
the County of San Diego, California, in which county the within-
mentioned mailing occurred, and not a party to the subject cause. My business
(Business/Residence)
address is 3960 Park Blvd., San Diego, CA 92103
(No., Street) (City, State)
I served the ANSWER TO CROSS-COMPLAINT FOR DAMAGES AND RECISSION

of which a true and correct copy of the document filed in the cause is affixed, by placing a copy thereof in a separate envelope for each addressee named hereafter, addressed to each such addressee respectively as follows:

THOMAS H. AULT, ESQ.
Holt, Rhoades and Hollywood
1010 Second Avenue, Suite 1712
San Diego, CA 92101

Each envelope was then sealed and with the postage thereon fully prepaid deposited in the
United States mail by me at San Diego California, on
(City)
December 2nd, 19 76

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 2nd, 19 76, at San Diego,
(Place)

California.

Jaqueline V. Muesing
(Signature)

PROOF OF SERVICE BY MAIL